

PHOTO ENFORCEMENT SERVICES AGREEMENT

THIS AGREEMENT is between American Traffic Solutions, Inc. (herein "ATS"), with its principal place of business at 7681 East Gray Road, Scottsdale, Arizona, and the City of Bellevue, Washington, herein "Customer", with principal offices at 450 110th Avenue NE, Bellevue, Washington 98004.

WITNESSETH:

WHEREAS, ATS has the exclusive knowledge, possession and ownership of certain equipment, licenses, and processes, referred to collectively as the "Axis[™] System" (herein "Axis"), and

WHEREAS, Customer desires to use the Axis[™] System to monitor and enforce red light violations, and may, in the future, desire to monitor and enforce traffic speed or other traffic movements and to issue citations for traffic violations.

WHEREAS, ATS acknowledges that Customer has an existing Interlocal Agreement For Provision of District Court Services Between King County and The City Of Bellevue (District Court Interlocal Agreement) that provides in part that duties imposed by "General Rules (GR) 29 – Presiding Judge in Superior Court, District and Limited Jurisdiction Court" - are non delegable as provided therein;

NOW THEREFORE, the parties agree:

1. DEFINITIONS:

As used in this Agreement, the following words and terms shall, unless the context otherwise requires, have the respective meanings provided below:

"Approach" is defined as one direction of travel of one or more lanes on a road or a traffic intersection up to four (4) contiguous lanes controlled by up to two (2) signal phases.

"Camera System" means a photo-traffic monitoring device consisting of one (1) rear camera, strobe, and traffic monitoring device capable of accurately detecting a traffic infraction on up to four contiguous lanes controlled by up to two (2) signal phases and which records such data with one or more images of such vehicle. "Camera System" shall also, where the sense requires, include any enclosure or cabinet and related appurtenances in which the Axis[™] is stationed.

"Citation" means a citation or notice of violation or equivalent instrument issued by a competent state or municipal law enforcement agent or agency or by a court of competent jurisdiction relating to a violation documented or evidenced by Axis[™].

"Owner" means the owner(s) of a motor vehicle as shown by the motor vehicle registration records of the motor vehicle department or the analogous agency of another state or country.

"Paid Citation" means a situation where the person cited has entered a plea of guilty and paid any portion of the fine and applicable court costs associated with the particular citation.

"Person" or **"persons"** means any individual, partnership, joint venture, corporation, trust, unincorporated association, governmental authority or political subdivision thereof or any other form of entity.

"Recorded Image" means an image digitally recorded by a Camera System.

"Axis System" means the Axis Violation Processing System which is a hosted application

owned, maintained and managed by ATS from its facilities.

"Traffic Control Signal" means a traffic control device that displays alternating red, yellow and green lights intended to direct traffic when to stop at or proceed through and intersection.

"VIMS Analysis" is a statistical assessment of violations rates at suspected problem intersections and approaches to determine the need for a red light system.

"Violation" means failure to obey an applicable traffic law or regulations, including, without limitation, failure to obey a traffic signal, operating a motor vehicle in excess of the posted speed limit, and operating a motor vehicle without displaying a valid license plate.

2. ATS AGREES TO PROVIDE:

A. The scope of work is identified in Exhibit "A, Section 1". In addition to any other duties set forth in this Agreement, ATS, subject to the provisions of this Agreement including **Exhibit "A, Section 1" - Project Scope of Work**, shall:

1. Manage the delivery, installation and configuration of the System and the performance of all services in connection therewith as described in, and in conformance with, **Exhibit "A, Section 1" - Project Scope of Work**;
2. Provide, review, and approve all technical specifications with respect to Customer's hardware and equipment to ascertain compatibility with the System;
3. Develop, in consultation with, Customer and Subcontractors, the Acceptance Test Plan (ATP) for the System according to the **Exhibit "A, Section 1" - Project Scope of Work**;
4. Assist Customer in performing acceptance testing in the manner contemplated by the **Exhibit "A, Section 1" - Project Scope of Work**;
5. Assist Customer in performing the final acceptance testing to determine whether the System conforms to the ATP and is ready for Final System Acceptance;
6. Act as the central point of contact and coordinator for all services. Obtain license, warranty, and/or service agreements from vendors of Third Party Products and Services provided hereunder and transfer and/or pass through the benefits of such agreements to Customer including, but not limited to, any contracts or agreements with any and all Subcontractors;
7. Provide Customer with any Upgrades or Updates of, and Modifications, Customization, Interfaces or Enhancements to, the Axis System, concurrently with such Upgrades, Updates, Modifications, Customization, Interfaces and Enhancements being made available to other licensees of the Software (it being acknowledged that following expiration of the Warranty Period, such Upgrades, Updates, Modifications, Customization, Interfaces and Enhancements will be made available pursuant to the Software Maintenance Agreement). Any costs pertaining to the installation of such Upgrades, Updates, Modifications, Customization, Interfaces and Enhancements shall be the responsibility of ATS, to the extent the installation involves incorporating the Upgrade, Update, Modification, Customization, Interface or Enhancement into the System and in doing so securing for Customer, at a minimum, the same level of functionality that it had with respect to the System immediately prior to the installation of such Upgrade, Update, Modification, Customization, Interface or Enhancement;

Notwithstanding the paragraph above, the Customer understands that ATS will not be selling or delivering software to the Customer or accessing Customer systems and that the Customer will only be accessing the Axis System remotely using an internet

connection. As such, the Customer understands that ATS is not providing licensed software for installation on Customer systems but accessibility to the Axis System under the terms of this Service Agreement.

8. Verify with Customer that the services due from Subcontractors and any other vendor under this Agreement have been delivered and/or performed in accordance with the terms of this Agreement prior to releasing payments for such services;

9. Assist Customer in determining whether and when the Camera System and Axis System is ready for use in Live Operations;

10. Deliver, Install, and Implement the System at the stated location(s) and in stated quantities including, without limitation, all Deliverables in accordance with the Specifications and the Project Schedule included in **Exhibit "A, Section 1" - Project Scope of Work** or elsewhere in this Agreement or otherwise mutually agreed upon in writing by Customer and ATS; and with respect to delivery, installation and implementation, ATS shall comply with state, federal, and industry standards for such items;

11. Following Delivery and Installation of the System, provide Customer with training as specified in the Training Plan included in **Exhibit "A, Section 1" - Project Scope of Work**. Such training is to be provided on a mutually agreed upon schedule between Customer and ATS. If Customer is not available for training at the scheduled time(s), a revised training schedule will be established based upon the mutual agreement of both parties, and the Project Schedule shall, if necessary, be revised by mutual agreement of the parties. Training materials are to be provided electronically by ATS for review and approval by Customer in advance of the scheduled training date;

12. Work in cooperation with Customer staff and/or various other Customer contractors under contract with Customer. ATS agrees to coordinate and cooperate with all such staff and Customer Contractors as may be necessary, to assure timely and successful implementation of the System according to the Project Plan.

B. ATS shall perform the duties described in **Exhibit "A, Section 1" - Project Scope of Work**, as supplemented above, in an efficient, competent and timely manner and exercise reasonable care, skill and diligence in the performance thereof. Having regard to **Exhibit "A, Section 1" - Project Scope of Work** and the Project Schedule, ATS shall, in consultation with Customer, determine the manner and means by which such duties shall be performed. Such duties shall be performed with Customer's full cooperation, at Customer's premises or, if agreed to by both parties, at an alternate location. ATS agrees, while working on Customer's premises, to observe Customer's rules and policies, ATS shall respond expeditiously to any inquiries pertaining to this Agreement and the Project from Customer.

3. ATS AND SUBCONTRACTORS

A. ATS may enter into subcontracts with third parties for its performance of any part of ATS's duties and obligations, provided that, in no event shall the existence of a subcontract release or reduce the liability of ATS to Customer for any breach in the performance of ATS's duties. ATS agrees to hold Customer harmless hereunder for any loss or damage of any kind, including attorney's fees, occasioned by the acts or omissions of ATS's Subcontractors, their agents, or employees. Customer reserves the right to reject any Subcontractor. Third party products or services included in **Exhibit "A, Section 1" - Project Scope of Work** require a contract to be in place prior to the commencement of this contract.

B. ATS shall ensure, with written documentation, that Customer is an intended third-party beneficiary with the right to enforce the terms of any agreement between ATS and any Subcontractor used by ATS pertaining to the services, products and licenses provided under this Agreement. ATS shall be responsible for coordinating any response to disputes or issues, and shall use commercially reasonable efforts to ensure that any such dispute or issue is resolved to Customer's satisfaction. Failure to obtain a written agreement naming the Customer as a third party beneficiary shall be considered a material breach of this Agreement.

4. CUSTOMER AGREES TO PROVIDE:

The scope of work identified in Exhibit "A, Section 2."

5. TERM AND EFFECTIVE DATE

This contract shall be effective on the date of the last signature below. The term of this Agreement shall be for five (5) years from the date Customer signs same (the "Start Date") and may be extended for two additional five (5) year periods. Customer may extend this Agreement at the expiration of any term by providing ATS 60 days written notice of renewal.

6. SOFTWARE ACCESSIBILITY

A. Grant of License: Subject to the terms and conditions of this Agreement, CONTRACTOR hereby grants to CUSTOMER: a non-exclusive right to access and use the Axis System for the purposes intended under this service agreement as outlined in **Exhibit "A, Section 1" – Project Scope of Work**.

B. Term of Licenses: The access granted under the license herein commences on the Effective Date and terminates upon termination of the contract.

7. FEES AND PAYMENT:

A. Customer shall pay for all equipment, services and maintenance based on the fee schedule indicated in Exhibit A, Schedule 1, ("Fees") in consideration of acceptable ATS performance. Payment shall only be made for services performed, after acceptance (and initially only after acceptance as determined by ATP) and authorization by Customer. Such payment shall be made within thirty (30) days after the Customer's receipt of a properly completed invoice and acceptance of the services. Payment periods will be computed from the date of the acceptance by the Customer of completion of all services, or the date of receipt of a correct invoice, whichever date is later. This section is not intended to restrict partial payments that are specified in the contract.

B. All records and accounts pertaining to this Agreement are to be kept available for inspection by representatives of the Customer for a period of three (3) years after final payment. Copies shall be made available to the Customer upon request.

C. If during the course of the Agreement, the work performed does not meet the requirements set forth in the Contract, ATS shall correct or modify the work to comply with the Agreement requirements and the Customer shall have the right to withhold payment for such work until it meets the requirements of the Agreement.

D. Invoices must show a breakdown of services provided and price for each. Only designated Customer staff may place work order(s). Invoices must specify the name and phone number of the Customer employee who placed the order.

E. Cost Neutrality Clause - During the term of the contract, Customer shall not be required to pay ATS more than Customer (or ATS on Customer's behalf) has collected/received in revenue through the use of the Axis System cumulatively throughout the term of the contract. For the purposes of this clause, the term "revenue" applies to that portion of fines actually received by the Customer ("revenue") according to the distribution method applicable under State law or by court contract. This clause will be applied as follows:

1. Where revenue for the program during any month, as defined by Customer, are less than the full amount of ATS invoices, ATS shall be entitled to payment in the full amount of revenue ATS will maintain an accounting of any net balances owed to ATS and shall apply future revenue received by Bellevue first to the accrued balance and then to the current months invoice.

Example: If during October, November and December revenue received is \$2,000 per month and ATS invoice is \$4,000 per month, Customer will only pay for each month \$2,000. However, if in January revenue is \$8,000, Customer will pay ATS the full \$8,000 which would then still leave a balance owing of \$2,000. In February Customer received \$8,000 in revenue. ATS would receive \$6,000. Additionally, the \$2,000 surplus would be available for payment in a future month in which revenue is less than amount invoiced. This running reconciliation shall be for the term of the contract which shall be documented by a monthly invoice showing to date deficit or surplus amounts.

F. Taxes, Fees and Licenses:

1. Taxes: Where required by state statute, ordinance or regulation, ATS shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, Customer agrees to pay State of Washington sales or use taxes on all applicable consumer services and materials purchased.

2. Fees and Licenses: ATS shall pay for and maintain in a current status, any license fees, assessments, permit charges, etc., which are necessary for contract performance. It is the ATS' sole responsibility to monitor and determine any changes or the enactment of any subsequent requirements for said fees, assessments, or charges and to immediately comply with said changes during the entire term of this Agreement. ATS must pay all custom duties, brokerage or import fees where applicable as part of the contract price. ATS shall take all necessary actions to ensure that materials or equipment purchased are expedited through customs.

8. RESPONSIBILITY OF ATS

A. Safety

ATS shall take all necessary precautions for the safety of employees and the general public on the work site and shall comply with all applicable provisions of federal, state and local regulations, ordinances and codes. ATS shall erect and properly maintain at all time, as required by the conditions and progress of the work, all necessary safeguards for the protection of the workers and the public and shall post danger signs warning against known or unusual hazards.

B. Warranties

ATS warrants that all materials, equipment, and/or services provided under this Agreement shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to the

requirements and specifications herein. Acceptance of any service and inspection incidental thereto by Customer shall not alter or affect the obligations of the ATS or the rights of Customer. ATS shall be responsible for correcting any deficiencies and for completing the work as described in Exhibit A. 1. ATS shall comply with the maintenance procedures and manufacturer recommendations for operation of the Axis™ equipment which affect this Agreement.

C. Warranty of Performance

For a period of ^{five} ~~two~~ years from date of this Agreement, ATS warrants that the system will perform in accordance with the specifications and requirements contained in this Agreement. ATS warrants to Customer that the deliverables will perform in accordance with the description of the functions and capabilities as described in **Exhibit "A, Section 1" – Project Scope of Work**, provided that the deliverables are properly used in accordance with ATS's instructions. ATS agrees that it will promptly make corrections of Errors in accordance with the response guarantees defined in **Exhibit "A, Section 1" – Project Scope of Work** which are reported in writing to ATS.

D. Intellectual Property Rights

ATS represents and warrants that: (1) it is and will be either the sole author of, or duly licensed and authorized to use, all works employed by ATS in preparing any and all Software; (2) it has and will have full and sufficient right to assign or grant the rights and/or licenses in the Software, and (3) all Software provided to Customer does not and will not infringe any patents, copyrights, trademarks, or other intellectual property rights (including trade secrets), privacy or similar rights of any third party, nor has any claim (whether or not embodied in an action, past or present) of such infringement been threatened or asserted, nor is such a claim pending against ATS (or, insofar as ATS is aware, any entity from which ATS has obtained such rights). ATS represents and warrants that it owns or has the absolute right to sell, license, or otherwise grant the rights in the System conveyed to Customer herein, and that neither the System nor any of its components (including any third party products), infringes any patent, copyrights, or other intellectual property right of, or misappropriates the trade secrets of, any person or entity. ATS shall protect, indemnify, defend, and hold harmless Customer and Customer's officers and directors, agents, and employees, against any claim or legal action (whether or not such claim or action is frivolous) brought by a third party arising out of a claim of infringement of patent, copyrights, or other intellectual property rights, or misappropriation of trade secrets, in connection with the Use (copying of any portion of the Software from a storage unit or media into a computer or Server and execution of the software thereon) of the System (including third party software incorporated into the Licensed Software by ATS and Updates) by Customer or in connection with the Use of the System.

E. Patents

ATS does not convey to Bellevue, nor does Bellevue obtain, any right to any document or material utilized by ATS that was created or produced separate from this Contract or was preexisting material (not already owned by Bellevue), provided that the ATS has clearly identified in writing such material as preexisting prior to commencement of the Work. To the extent that preexisting materials are incorporated into the Work, the ATS grants Bellevue an irrevocable, non-exclusive, fully paid, royalty-free right and/or license to use, execute, reproduce, display, and transfer the preexisting material, but only as an inseparable part of the Work.

requirements and specifications herein. Acceptance of any service and inspection incidental thereto by Customer shall not alter or affect the obligations of the ATS or the rights of Customer. ATS shall be responsible for correcting any deficiencies and for completing the work as described in Exhibit A. 1. ATS shall comply with the maintenance procedures and manufacturer recommendations for operation of the Axis™ equipment which affect this Agreement.

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D. Intellectual Property Rights

ATS represents and warrants that: (1) it is and will be either the sole author of, or duly licensed and authorized to use, all works employed by ATS in preparing any and all Software; (2) it has and will have full and sufficient right to assign or grant the rights and/or licenses in the Software, and (3) all Software provided to Customer does not and will not infringe any patents, copyrights, trademarks, or other intellectual property rights (including trade secrets), privacy or similar rights of any third party, nor has any claim (whether or not embodied in an action, past or present) of such infringement been threatened or asserted, nor is such a claim pending against ATS (or, insofar as ATS is aware, any entity from which ATS has obtained such rights). ATS represents and warrants that it owns or has the absolute right to sell, license, or otherwise grant the rights in the System conveyed to Customer herein, and that neither the System nor any of its components (including any third party products), infringes any patent, copyrights, or other intellectual property right of, or misappropriates the trade secrets of, any person or entity. ATS shall protect, indemnify, defend, and hold harmless Customer and Customer's officers and directors, agents, and employees, against any claim or legal action (whether or not such claim or action is frivolous) brought by a third party arising out of a claim of infringement of patent, copyrights, or other intellectual property rights, or misappropriation of trade secrets, in connection with the Use (copying of any portion of the Software from a storage unit or media into a computer or Server and execution of the software thereon) of the System (including third party software incorporated into the Licensed Software by ATS and Updates) by Customer or in connection with the Use of the System.

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F. Copyrights

For any software, documents or materials not created exclusively for Bellevue, ATS grants to Bellevue a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the ATS for Bellevue under this Contract. Bellevue may make and retain copies of such documents for its information and reference in connection with their use on the project.

G. Right to Sell

ATS represents and warrants that it owns or has the absolute right to sell, license, or otherwise grant the rights in the Deliverables conveyed to Customer herein, and that neither the Deliverables nor any of its components (including any third party products), infringes any patent, copyrights, or other intellectual property right of, or misappropriates the trade secrets of, any person or entity.

H. Surreptitious Code

ATS represents and warrants that the System provided to Customer does not contain or will not contain any "self-help code" or any unauthorized code as defined below. As used in this Agreement, "self-help code" means any back door, time bomb, drop dead device, or other software routine designed by, or for the use of, ATS, to disable a computer program automatically with the passage of time or under the positive control of ATS or any other person other than a licensee of the System. "Self-help code" does not include software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Agreement, "unauthorized code" means any virus, Trojan horse, worm or other software routines or equipment components designed by, or used by the ATS, to permit unauthorized access, or to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include "self-help code".

I. Services

ATS represents and warrants that all services shall be provided in a timely manner in accordance with the schedule included in **Exhibit "A, Section 1" – Project Scope of Work**, with a reasonable standard of care, in a workmanlike and professional manner; and each of the human resources assigned to perform services for Customer shall be fully qualified, experienced, and technically trained and shall perform the services in a reasonably cost-efficient manner.

In addition, all work hereunder, including but not limited to, consulting, project management, training and technical support, has been performed in a good and workmanlike manner and consistent with generally accepted industry standards. For any breach of this warranty, ATS shall either, at the Customer's option, perform the services again, at no cost to Customer, or ATS shall reimburse Customer the fees paid to ATS for the unsatisfactory services.

J. Security

Although ATS does not foresee needing to obtain access to Customer systems, given the nature of the services provided, ATS must make every reasonable effort to protect Customer systems and data from improper access. ATS must protect access to Customer administrative accounts and passwords for those accounts may not be given to new employees of the ATS without written approval from the Customer. For security purposes, ATS may be required to provide written waivers to permit Customer to conduct background investigations of any of its employees, representatives, agents, and subcontractors assigned to Customer projects. If ATS has access to Customer systems for any reason, ATS must comply with the conditions of the Customer's Technology Resource Usage Policy and security policies.

K. Compatibility

To the best of ATS' knowledge, ATS represents and warrants that the System is compatible with Customer's and court's computing environment, including, but not limited to, database software, network, and platforms, as described in this Agreement.

L. Quiet Enjoyment

ATS represents and warrants that the System is the sole and exclusive property of ATS or that ATS is authorized to provide full use of the System to the Customer as provided herein and that System is not subject to any lien, claim, or encumbrance inconsistent with any of Customer's rights under this Agreement and that Customer is entitled to, and shall be able to enjoy quiet possession and use the System without interruption by ATS or its agents.

M. Adequate Resources

ATS represents and warrants that it has the resources, personnel, expertise and corporate infrastructure available to deliver and support the design, delivery, implementation and maintenance of the System and meet any milestones and/or deadlines imposed by this Agreement, as well as performing the services described herein in accordance with the terms and conditions of this Agreement, except as otherwise provided in this Agreement.

N. ATS's Proposal

ATS recognizes that the Customer has based the awarding of this contract on the representations given by ATS to Customer. ATS represents and warrants all claims, including but not limited to representations regarding prior contract terminations, or representations regarding current or future functionality, documented in its response to the Customer's Request for Proposal

O. Product Condition

ATS represents and warrants that unless otherwise specified, each Product delivered shall be delivered new and not as a "used, substituted, rebuilt, refurbished or reinstalled" Product.

P. Specifications

ATS represents and warrants that all Products provided by Contractor shall meet or exceed the specifications set forth in Contractor's informational materials or design specifications.

Q. Employment

Any and all employees of ATS, while engaged in the performance of any work or services required by ATS under this Agreement, shall be considered employees of ATS only and not of the Customer. Any and all claims that may arise under the Workers Compensation Act on behalf of said employees, while so engaged, and all claims made by a third party as a consequence of any negligent act or omission on the part of the ATS' employees, while so engaged in any of the work or services provided for or rendered, shall be the obligation of the ATS and not the of the Customer.

9. ACCEPTANCE:

Customer shall test the System in accordance with the Acceptance Test Plan included in **Exhibit "A, Section 1" - Project Scope of Work** and shall Go-Live with the System if, after completing these tests, Customer determines that the System conforms to the Specifications set forth in the description of the System set out in **Addendum A – Detailed Description of System** and **Exhibit "A, Section 1" – Project Scope of Work**. In addition, at such time as the System has complied with the Acceptance Criteria required for Final System Acceptance, the parties will jointly execute a Completion Certificate. Until such time, the System will not be deemed to have achieved the Acceptance Criteria associated with Final System Acceptance. For purposes of clarity, it is the objective of the parties to achieve Final System Acceptance within ninety (90) days following Customer commencing Live Operations.

10. INTERSECTION AND VIOLATION RATE ANALYSIS:

Prior to implementing the Axis System, ATS may conduct an analysis of each Approach being considered for a Camera System. If ATS deems necessary, ATS will use the Axis™ VIMS (Violation Incident Monitoring System) or other tool or means to complete the analysis over a 4 to 24 hour period. The Customer will be provided a report on violations recorded at each monitored approach, including the time of day and lanes on which the violations occurred. For any Approach recommended by the Customer, ATS may install a Camera System. However, ATS may elect not to install a Camera System where traffic violation data does not support installation of the Axis System.

11. COMMUNICATION OF INFORMATION:

ATS agrees that all information obtained by ATS through operation of the Axis System shall be made available to the Customer at any time during ATS's normal working hours, excluding trade secrets and other confidential or proprietary information not reasonably necessary for the prosecution of citations or the fulfillment of Customer's obligation under this Agreement.

12. CONFIDENTIAL INFORMATION:

A. ATS Understanding and Obligations:

1. ATS understands that any records (including but not limited to bid or proposal submittals, the Agreement, and any other contract materials) it submits to Customer, or that are used by Customer even if ATS possesses the records, are public records under Washington State law, RCW Chapter 42.56. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. ATS also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.

2. ATS must separate and clearly mark as "proprietary" all records related to this Agreement or the performance of this Agreement that ATS believes are exempt from disclosure. ATS is familiar with potentially-applicable public-disclosure exemptions and the limits of those exemptions, and will mark as "proprietary" only information that ATS believes legitimately fits within an exemption and will state the statutory exception upon which it is relying.
3. If Customer notifies ATS under Paragraph B 2 of a public disclosure request, and ATS believes records are exempt from disclosure, it is ATS's responsibility to make determination and pursue a lawsuit under RCW 42.56 or any other applicable law to enjoin disclosure. ATS must obtain the injunction and serve it on the Customer before the close of business on the tenth business day after Customer sent notification to ATS. It is ATS's discretionary decision whether to file the lawsuit.
4. If ATS does not timely obtain and serve an injunction, ATS is deemed to have authorized releasing the record.
5. Notwithstanding the above, ATS must not take any action that would affect (a) Customer's ability to use goods and services provided under this Agreement or (b) ATS obligations under this Agreement.
6. ATS will fully cooperate with Customer in identifying and assembling records in case of any public disclosure request.
7. ATS shall not use any information acquired by this program with respect to any violations or the Customer's law enforcement activities for any purpose other than the program.

B. Customer's Obligations:

1. Customer will only disclose those parts of records ATS has marked as "proprietary" information: (a) in response to a public disclosure request, or (b) ATS has given the Customer express advance written permission to disclose the records; (c) to Authorized Persons. "Authorized persons" means those Customer officers, employees, contractors and consultants for whom the proprietary information is necessary to perform their duties or obligations to the Customer. The term "proprietary information" does not include ideas, concepts, know-how or techniques related to any information that, at the time of disclosure, is in the public domain, unless the entry of that information into the public domain is a result of a breach of this Agreement.
2. If Customer receives a public disclosure request for records that ATS has marked as "proprietary" information, Customer may promptly notify ATS of the request. The Customer may postpone disclosing these records for ten business days after it has sent notification to ATS, in order to allow ATS to file a lawsuit under RCW 42.56 or other applicable laws to enjoin disclosure. It is ATS' discretionary decision whether to file the lawsuit.

3. If Customer has notified ATS of a public disclosure request, and ATS has not obtained an injunction and served Customer with that injunction by the close of business on the tenth business day after Customer sent notice, Customer may then disclose the record.

4. Customer has no other obligations concerning records ATS has marked as "proprietary information" under this Agreement. Customer has no obligation to claim any exemption from disclosure. The Customer is not obligated or liable to ATS for any records that Customer releases in compliance with this Section or in compliance with the order of a court of competent jurisdiction.

13. GENERAL ADMINISTRATION AND MANAGEMENT:

The director of the Police department, or his/her designee, shall have primary responsibility for the Customer under this Contract and shall oversee and approve all work to be performed, coordinate communications, and review and approve all invoices, under this Contract.

14. OWNERSHIP OF SYSTEM:

It is understood by the Customer that the System being installed by ATS is, and shall remain, the sole property of ATS, unless separately procured from ATS through a lease or purchase transaction. The System is being provided to Customer only under the terms and for the term of this Agreement. All finished or unfinished documents and materials prepared by ATS with funds paid by the Customer under this Agreement shall become the property of the Customer and shall be forwarded to the Customer upon request.

15. NO AGENCY:

ATS is an independent contractor providing services to the Customer and the employees, agents and servants of ATS shall in no event be considered to be the employees, agents, or servants of the Customer. This contract is not intended to create an agency relationship between ATS and the Customer.

16. ASSIGNMENT:

ATS shall not assign or subcontract any of its obligations under this Agreement without Customer's prior written consent which may be granted or withheld in Customer's sole discretion but which may not be unreasonably withheld. Any subcontract made by ATS shall incorporate by reference all the terms of this Agreement. ATS shall ensure that all subcontractors comply with the obligations and requirements of the subcontract. Customer's consent to any assignment or subcontract shall not release ATS from liability under this Agreement, or from any obligation to be performed under this Agreement, whether occurring before or after such consent, assignment, or subcontract.

17. COMPLIANCE WITH LAWS:

A. Nondiscrimination/Equal Protection. ATS agrees not to discriminate against any employee or applicant for employment or any other persons in the performance of this Agreement because of race, religion, creed, color, national origin, marital status, gender, age or handicap, or other circumstances as may be defined by federal, state or local law or ordinance, except for a bona fide occupational qualification. ATS agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by ATS setting forth the provisions of this nondiscrimination clause.

B. ATS shall comply with all federal, state and local regulations and ordinances applicable to the work to be done under this Agreement. Inasmuch as the Customer is a body politic and corporate, the laws from which Customer derives its powers, insofar as the same law regulates the objects for which, or manner in which, or the concerns under which, the Customer may enter into this Agreement, shall be controlling and shall be incorporated by reference into this Agreement.

C. Any violation of the provisions of this Paragraph 15 shall be considered a violation of a material provision of this Agreement and shall be grounds for cancellation, termination or suspension of the Agreement by the Customer, in whole or in part, and may result in ineligibility for further work for the Customer.

18. LEGAL CONSTRUCTION:

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein. Customer and ATS agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision. Provided however, at Customer's sole discretion, nothing herein shall limit Customer's right to terminate as provided under Paragraph 23 of this Agreement.

19. COURT OPERATIONS:

ATS acknowledges that should there be any conflict between any current District Court Interlocal Agreement and its amendments and this Agreement that the District Court Interlocal Agreement shall control.

20. CLAIMS:

Any claim against the Customer for damages, expenses, costs or extras arising out of the performance of this Agreement must be made in writing to the Customer within thirty (30) days after the discovery of such damage, expense or loss, and in no event later than the time of approval by the Customer for final payment. ATS, upon making application for final payment, shall be deemed to have waived its right to claim for any other damages for which a claim has not been made, unless such application for final payment includes notice of additional claim and fully describes such claim.

21. INDEMNIFICATION AND INSURANCE:

To the extent permitted by law, ATS shall protect, defend, indemnify and hold the Customer harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, trademark or trade secret, arising out of the work performed or goods provided under this Agreement, or ATS' violation of any law, ordinance or regulation, except for damages resulting from the negligence of the Customer. As to the Customer, the ATS waives any immunity it may have under RCW Title 51 or any other Worker's Compensation statute. The parties acknowledge that this waiver has been negotiated by them, and that the contract price reflects this negotiation.

ATS shall maintain insurance as set forth in Attachment B.

The Customer shall be responsible for vehicle insurance coverage on any vehicles driven by Customer employees. Coverage will include liability and collision damage.

22. RISK OF LOSS AND INSURANCE:

The risk of loss for the Deliverables hereunder shall pass to Customer upon the completion of both (a) Delivery of that Deliverable to (i) the Designated Location; or (ii) another location owned or controlled by Customer and specified by Customer for such delivery, and (b) the signature of a person authorized to receive the delivery.

The ATS shall maintain Insurance that is sufficient to protect the ATS's business against all applicable risks, as set forth in Attachment B— Insurance Requirements. The ATS will cause the Indemnified parties to be named as additional Insureds on the policy required under the Agreement and shall cause its insurance to be primary to any Insurance carried by the Indemnified parties. The ATS will provide the Customer with certificates of Insurance and other supporting materials as Customer reasonably may request to evidence ATS's continuing compliance with this section. The ATS will be liable for all loss or damage, other than ordinary wear and tear, to the Customer's property in the ATS's possession or control that is caused by the ATS. In the event of any such loss or damage, the ATS will pay the Customer the full current replacement cost of such equipment or property within thirty (30) days after its loss or damage.

23. STATE LAW TO APPLY:

This Agreement shall be construed under and in accordance with the laws of the State of Washington. The venue for any action relating to this Agreement shall be in the Superior Court for King County, State of Washington. ATS agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned courts.

24. LEGAL FEES:

In any lawsuit between the parties with respect to the matters covered by the Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs incurred in the lawsuit, in addition to any other relief it may be awarded.

25. WAIVER:

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by Customer of any performance by ATS after the time the same shall have become due nor payment to ATS for any portion of the Work shall constitute a waiver by Customer of the breach or default of any covenant, term or condition unless otherwise this is expressly agreed to by Customer, in writing. Customer's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the Customer's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.

26. TERMINATION

A. The Agreement may be terminated:

- i) By mutual written consent of the parties;

- ii) For Cause - by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies in writing the other party of its intent to terminate, stating with reasonable specific Customer the grounds therefore, and the other party fails to cure the default within sixty (60) days after receiving notice. ATS specifically shall be deemed in default if the System continues to exhibit defects causing serious disruption of use and/or repeated periods of downtime, notwithstanding ATS's remedial or maintenance efforts, over a continuous period of sixty (60) days.
- iii) For Convenience: Customer may terminate this contract in whole or in part, without cause and for any reason, including Customer's convenience, upon written notice to the Contractor at the conclusion of the first 12 months from activation of the Camera System in Work Order #1. After 12 months from the first issued notice from the most recent camera installation in the first work order, Customer can terminate for convenience, and Contractor will receive a termination fee of six additional months of base fees for each installed camera.
- iv) For External Cause Interfering With Performance - by either party in the event that state legislation, a decision by a court of competent jurisdiction, or other change in state law or circumstances materially interferes with the terms of this Agreement or the ability of a party to perform its obligations under the terms of this Agreement. In any termination for external cause, ATS shall retain an amount of revenue collected from the program sufficient to cover ATS's costs in excess of fees paid to date, except said retention shall not apply for any other termination under A.ii of this paragraph or contrary to the neutral cost clause, above
- v) Termination at end of contract term as provided in Paragraph 5 above.

B. Upon termination of this Agreement, either for breach or because it has reached the end of its term, the parties recognize that the Customer will have to process traffic law violations in the "pipeline," and that ATS accordingly must assist the Customer in this regard. Accordingly, the parties shall take the following actions, and shall have the following obligations, which survive termination during the wind-down period: The Customer shall cease using the Axis™ System, shall return or allow ATS to recover all provided equipment within a reasonable time not to exceed 60 days, and shall not generate further images to be processed. Unless directed by the Customer not to do so, ATS shall continue to process all images taken by the Customer before termination and provide all services associated with processing in accordance with this Agreement, and shall be entitled to all Fees specified in the Agreement as if the Agreement were still in effect.

27. ENTIRE AGREEMENT:

This Agreement, including all attachments, amendments and subsequently issued change notices, comprises the entire agreement between the Customer and ATS. The Agreement and Work Orders, the addendum to the RFP, ATS' proposal, including all attachments, are explicitly included in this Agreement. Where there are conflicts among these documents, the controlling document will be in that same sequence, with the first taking priority over the last listed. No verbal agreement or conversation between any officer, agent, associate or employee of Customer and any officer, agency, employee or associate of ATS prior to the

execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement.

28. AMENDMENTS TO THE AGREEMENT:

The Customer may from time to time consider it in its best interest to change, modify or extend term, conditions or covenants of this Agreement or require changes in the scope of the Services to be performed by ATS, or request ATS to perform additional services regardless of and without invalidating the process that was used to procure the services enumerated under this Agreement. Any such change, addition, deletion, extension or modification, including any increase or decrease in the amount of ATS's compensation, which are mutually agreed upon by and between the Customer and ATS shall be incorporated in written amendments (herein called "Amendments") to this Agreement. Such Amendments shall not invalidate the procurement process or this Agreement nor relieve or release ATS or the Customer of any of its obligations under this Agreement unless stated therein. Such amendments may be signed by the Customer Manager or his designee without further City Council authorization so long as these amendments are within the project budget.

29. FORCE MAJEURE:

In the event that either party is unable to perform any of its material obligations under this Agreement because of a natural disaster or action or decree of a superior governmental body (hereinafter referred to as a "Force Majeure Event" or "Event"), the party that has been so affected immediately shall give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, the affected party shall be excused from such performance as is affected by the Force Majeure Event for the period of such Event. If such Event affects the delivery date or warranty provisions of this Agreement, such date or warranty period shall automatically be extended for a period equal to the duration of such Event. Neither party will be liable to the other or be deemed to be in breach of this agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or governmental authorities approval delays which are not caused by any act or omission by ATS.

30. REMEDY FOR NONCONFORMITY

If the System does not perform in accordance with description of the functions and capabilities as described in **Exhibit "A, Section 1" – Project Scope of Work**, or if a material portion of the system is defective, said non-conformance or defect will be considered a breach. The Customer shall notify ATS, in writing, specifying in reasonable detail, the reason for the claimed breach, as soon as practicable after discovery of the breach. ATS shall then, at its own expense, replace, or make such corrections to the system as necessary to cure the deficiency. ATS shall notify Customer, in writing, when such corrections have been completed. If ATS fails to replace or correct the System to Customer's reasonable satisfaction, the Customer shall be entitled to a pro-rata refund for any fees paid for the period of non performance.

31. GENERAL TERMS

A. This Agreement shall be binding on the successors and assigns of the parties hereto and shall inure to the benefit of the successors and permitted assigns of the parties hereto, but nothing in this paragraph shall be construed as a consent to any assignment of this Agreement by either party except as provided in the ASSIGNMENT section of this Agreement.

- B. This Agreement shall not become a binding contract until signed by an authorized officer of both parties.
- C. All references to amounts of money in this Agreement refer to U.S. currency.
- D. Controlling language of this contract shall be in U.S. English.
- E. This Agreement may be executed in any number of identical counterparts, and each such counterpart shall be deemed a duplicate original thereof.
- F. The provisions contained herein shall not be construed in favor of or against either party because that party or its counsel drafted this Agreement, but shall be construed as if all parties prepared this Agreement.
- G. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the use of any gender, be it masculine, feminine or neuter, shall include all of the genders.

NOTICES:

Any notices or demand which under the terms of this Agreement or under any statute must or may be given or made by ATS or Customer shall be in writing and shall be given or made by personal service, first class mail, FedEx, or by certified or registered mail to the parties at the following address:

The City of Bellevue
450 – 110th Avenue NE
Bellevue, WA 98004
Attn: Captain Mike Johnson

American Traffic Solutions, Inc.
7681 E. Gray Rd
Scottsdale, AZ 85260
Attn: Chief Operating Officer

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date on Page 1.

CITY OF BELLEVUE

AMERICAN TRAFFIC SOLUTIONS, INC.


City Manager *POLICE CHIEF*


Adam E. Tuton, EVP/COO

Dated: 4/13/09

Dated: 2-26-09

Approved as to Form:



Attorney, City of Bellevue

Exhibit A
ATS SCOPE OF WORK

1. AMERICAN TRAFFIC SOLUTIONS (ATS) SCOPE OF WORK

1.2 ATS IMPLEMENTATION

- 1.2.1 ATS agrees to provide a turnkey solution for Camera Systems to the Customer wherein all reasonably necessary elements required to implement and operate the solution are the responsibility of ATS, except for those items identified in Section 2 titled "Customer Scope of Work". ATS and the Customer understand and agree that new or previously unforeseen requirements may, from time to time, be identified and that the parties shall negotiate in good faith to assign to the proper party the responsibility and cost for such items. In general, if work is to be performed by the Customer, unless otherwise specified, the Customer shall not charge ATS for the cost. All other in-scope work, external to the Customer, is the responsibility of ATS.
- 1.2.2 ATS agrees to make every effort to adhere to the Project Time Line agreed upon between the parties.
- 1.2.3 ATS will assist the Customer with video evaluation of candidate sites using the Axis VIMS system.
- 1.2.4 ATS will install Camera Systems at a number of intersections, school zones or grade crossing approaches to be agreed upon between ATS and the Customer after completion of site analyses. In addition to any initial locations, the parties may agree from time to time to add to the quantities and locations where Camera Systems are installed and maintained.
- 1.2.5 ATS will operate each Camera System on a 24-hour basis, barring downtime for maintenance and normal servicing activities.
- 1.2.6 ATS' in-house marketing department will assist the Customer with public information and outreach campaign strategies.
- 1.2.7 ATS agrees to provide a secure web site (www.violationinfo.com) accessible to citation recipients (defendants) by means of a Notice # and a PIN, which will allow violation image and video viewing.
- 1.2.8 The Customer and ATS will complete the Project Business Process Work Flow design within 30 calendar days of contract signature.
- 1.2.9 ATS normally shall provide technician site visits to each Camera System once per month to perform preventive maintenance checks consisting of camera enclosure lens cleaning; camera, strobe and controller enclosure cleaning; inspection of exposed wires; and general system inspection and maintenance.
- 1.2.10 ATS shall repair a non-functional Camera System within 72 business hours of determination of a malfunction.

- 1.2.11 ATS shall repair the Axis VPS system within 1 business day from the time of the outage. Outages of Customer internet connections or infrastructure are excluded from this service level.

1.3 ATS OPERATIONS

- 1.3.1 ATS shall provide the Customer with an optional one-time warning period up to 30 days in length at the outset of the program.
- 1.3.2 ATS shall provide the Customer with an automated web-based citation processing system (Axis™ VPS) including image processing, 1st notice color printing and mailing of Citation or Notice of Violation per chargeable event and a mailing of a text only reminder notice. Each Citation or Notice of Violation shall be delivered by First Class mail to the registered owner within the statutory period. Mailings to owners responding to first notices identifying drivers in affidavits of non-liability or by rental car companies are also included according to each pricing option.
- 1.3.3 ATS shall apply an electronic signature to the citation when authorized to do so by an approving law enforcement officer.
- 1.3.4 ATS shall obtain in-state vehicle registration information necessary to issue citations assuming that it is named as the Customer's agent.
- 1.3.5 ATS shall seek records from out-of-state vehicle registration databases and apply records found to Axis to issue citations for the Customer according to each pricing option.
- 1.3.6 If Customer is unable to or does not desire to integrate ATS data to its court system, ATS may provide an on-line court processing module, which will enable the court to review cases, related images, correspondence and other related information required to adjudicate the disputed citation. The system will also enable the Court staff to accept and account for payments. Any costs charged by a third party vendor to integrate the ATS system to a court computer system shall be borne by the Customer. ATS may agree to cover these up front costs and recover the costs from the collected revenue in addition to its normal fees.
- 1.3.7 The Axis™ VPS system, which provides the Customer with ability to run and print any and all standard system reports.
- 1.3.8 If required by the court or prosecutor, ATS shall, at its own cost, provide the Customer with, or train a local expert witness able to testify in Court on matters relating to the accuracy, technical operations, and effectiveness of the Axis™ System until judicial notice is taken.
- 1.3.9 In those instances where damage to a Camera System or sensors is caused by negligence on the part of the Customer or its authorized agent(s), ATS will provide Customer an estimate of the cost of repair. Upon authorization to proceed with the repairs or replacement, ATS shall replace or repair any damaged equipment and invoice for the pre-approved repair cost. ATS shall bear the cost to replace or repair equipment damaged in all other circumstances.

- 1.3.10 ATS shall provide a help line to help the Customer resolve any problems encountered regarding its Photo Enforcement Camera Systems and/or citation processing. The help line shall function during normal business hours.
- 1.3.11 As part of its turnkey system, ATS shall provide violators with the ability to view violations online. This online viewing system shall include a link to the payment website(s) and may offer the opportunity to download an affidavit of non-liability online. Online obtained affidavits, if approved by the court, shall be directed to and processed by ATS and communicated to the Court via the Axis VPS transfer described above.

2. CUSTOMER SCOPE OF WORK

2.2 GENERAL IMPLEMENTATION REQUIREMENTS

- 2.2.1 Within 7 business days of contract execution, the Customer shall provide ATS with the name and contact information for a project manager with authority to coordinate Customer responsibilities under the Agreement.
- 2.2.2 Within 7 business days of contract execution, the Customer shall provide ATS with the name and contact information for a District Court manager responsible for oversight of all Court-related program requirements
- 2.2.3 The Customer shall make every effort to adhere to the Project Time Line to be agreed upon between the parties.
- 2.2.4 The Customer shall direct the Chief of Police or approved alternate execute the ATS DMV Subscriber Services Agreement (Schedule 2) to provide verification to the State Department of Licensing, National Law Enforcement Telecommunications System, or appropriate authority indicating that ATS is acting as an Agent of the Customer for the purposes of accessing vehicle ownership data pursuant to the list of permissible uses delineated in the Drivers Privacy Protection Act 18 U.S.C. § 2721, Section (b) (1) and as may otherwise be provided or required by any provision of applicable state law.
- 2.2.5 The Customer and ATS shall complete the Project Business Process Work Flow design within 30 calendar days of contract signature.

2.3 STREETS AND TRAFFIC DEPARTMENT OPERATIONS

- 2.3.1 If the Customer chooses to move a Camera System to a new approach after initial installation, it shall pay the costs to relocate the System.
- 2.3.2 Customer will design, fabricate, install and maintain red light camera warning signs. If Customer cannot provide such signage, ATS will do so and charge the costs to the client.
- 2.3.3 The Customer shall provide access to traffic signal phase connections according to approved design.
- 2.3.4 Customer shall allow ATS to access power from existing power sources at no cost and shall allow or facilitate access to traffic signal phase connections to a pull box, pole base, or controller cabinet nearest to each Camera System

within the Customer's jurisdiction. The costs of any additional conduit or power infrastructure needed to support installation of the Camera System shall be funded by ATS or the Customer. The customer may choose to install the necessary infrastructure or can elect to have ATS fund the installation. ATS agrees to cover these up front costs and recover the costs from the collected revenue in addition to its normal fees, subject to the cost neutrality clause.

- 2.3.5 ATS will provide installation drawings stamped by a licensed civil engineer qualified in traffic engineering design. Deliverables shall conform to applicable engineering norms and reflect the details of installation work to be completed. ATS will submit traffic and pedestrian control plans in addition to the civil plans necessary for full installation of each Camera System. Scheduling of any Camera System installations may be impacted where such installations are adjacent to other major construction projects. Said installations will need to be coordinated with the adjacent projects
- 2.3.6 ATS acknowledges that plan review turnaround and iterations is dependent upon the initial quality of the design submitted and competing workload demands. The Customer shall make a good faith effort to 1) approve or reject ATS submitted plans within 14 business days of receipt; 2) limit iterations to a total of one revision beyond the initially submitted plans' and 3). have total plan approval duration not exceed 28 business days.
- 2.3.7 The Customer will charge ATS or its subcontractor for building, constructions, street use and/or pole attachment permits. ATS agrees to cover these up front costs and recover the costs from the collected revenue in addition to its normal fees, subject to the cost neutrality clause.
- 2.3.8 ATS will maintain all field facilities and equipment associated with this program. If any facility or equipment malfunction affects the Customer's traffic signal or lighting system, the Customer may disconnect or otherwise address this concern to maintain safe and efficient traffic operations to the public.
- 2.3.9 ATS shall provide the Customer as set of As-Built plans after construction of the ATS facilities.
- 2.3.10 ATS will be solely responsible to provide One-Call Locates to its facilities within the public right of way and anywhere else required by law.

2.4 POLICE DEPARTMENT OPERATIONS

- 2.4.1 The Police Department shall process each potential violation in accordance with State Laws and/or City Ordinances within 3 business days of its appearance in the Police Review Queue, using Aaxis™ to determine which violations will be issued as Citations or Notices of Violation.
- 2.4.2 Police Department workstation computer monitors for citation review and approval should provide a resolution of 1280 x 1024.
- 2.4.3 For optimal data throughput, Police Department workstations should be connected to a high-speed internet connection with bandwidth of T-1 or greater.

- 2.4.4 Police Department shall provide signatures of all authorized police users who will review events and approve citations on forms provided by ATS.

2.5 COURT OPERATIONS

- 2.5.1 The District Court is responsible for payment processing services including second notices, collections, and receipt of revenues.
- 2.5.2 Court shall provide a judge or hearing officer and court facilities to schedule and hear disputed citations.
- 2.5.3 Customer or designated court shall provide the specific text required to be placed on the Citation notice to be issued by ATS within 30 calendar days of contract signature.
- 2.5.4 The Customer shall approve the Citation form within as soon as reasonable possible after receipt from ATS.
- 2.5.5 Customer or designated court is responsible for inbound and outbound phone calls and correspondence from defendants who have questions about disputes, and other issues relating to citation adjudication.
- 2.5.6 ATS will identify any potential, one time, direct costs associated with development of an interface between the Court system and will notify Customer of these anticipated costs. Customer must approve the costs prior to ATS incurring them. Approved costs will be initially paid by ATS and any such costs will be reimbursed to ATS by the customer.

2.6 INFORMATION TECHNOLOGY DEPARTMENT OPERATIONS

- 2.6.1 In the event that remote access to the ATS Axis VPS System is blocked by Customer network security infrastructure, the Customer's Department of Information Technology shall coordinate with ATS to facilitate appropriate communications while maintaining required security measures.

Schedule 1
Service Fee Schedule

Fees for Basic Services	
Monthly fee per camera approach (up to or 4 lanes)	\$3,750
Fees for Optional Services	
Issuance of 2 nd Notice with return envelope (fee per unit)	\$1.50
Lockbox payment processing service included processing of checks, money orders, cashiers checks and cash as well as initial program setup and ongoing monthly account fees. (fee per processed item)	\$1.50
Affidavit/Transfer of Liability and New Address processing service - (fee per processed item)	\$2.00
Inbound and outbound call support related to hearing scheduling, payments, disputes, etc. (fee per call processed)	\$3.00
Fee per 1st citation issued, and each subsequent citation, above the sum of the total amount of cameras multiplied by 800 per month	\$5.00
Collections services – includes collections activity on all instate and out of state delinquent payments remaining after the second notice. Service includes noticing, phone contact, and credit reporting. ATS will add the collections fee to the outstanding notice balance such that City net equals \$101.	25% of collections
Skip Tracing (per good address located)	\$3.50
Fixed/Mobile Speed System	
Fixed Site Speed Camera for School Zone Enforcement	
Fee includes a 4-lane site and up to 400 issued citations per month per camera	\$4,750
Mobile Speed Camera for School Zone Enforcement (city staffed)	
Fee includes up to 400 issued citations per month per camera	\$7,500

Schedule 2

DMV Subscriber Agreement



DMV Services Subscriber Agreement

ATS requires that your agency certify the intended use of the information made available to your agency through our services and that such uses are in compliance with the Federal Driver's Privacy Protection Act Title XXXI and other applicable laws governing dissemination of public records. Based on your agency's intended use of such information, ATS will either grant permission to use the service or deny the application. Please specify any of the following permissible uses under §2721 that apply:

- ☐ (1) For use by any government agency, including any court of law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State or local agency in carrying out its functions.
- ☐ (4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.
- ☐ (7) For use in providing notice to the owners of towed or impounded vehicles.
- ☐ (10) For use in connection with the operation of private toll transportation facilities.

In consideration of ATS making its Services available, Subscriber agrees to (i) utilize ATS provided data only for the purpose(s) specified above; and (ii) request such information only for the Subscriber's exclusive use in the ordinary course of Subscriber's business and not for resale.

I certify that I am authorized to execute the Subscriber Use Certification on behalf of the Subscriber listed below. On behalf of such Subscriber, I certify that the above statements are true and correct. Subscriber acknowledges and agrees that ATS may from time to time audit Subscriber's use of ATS's Services to ensure that such use is consistent with the intended uses set forth above and with all applicable laws.

This agreement shall be for _____ year(s) commencing on the date below and shall automatically renew annually. This agreement may be terminated within 30 days notice of the anniversary date, annually.

SUBSCRIBER INFORMATION					
Subscriber Agency/Name					
NLETS Agency ORI					
Name of Authorized Representative					
Title of Authorized Representative					
Mailing Address:					
City		State:		ZIP Code:	
Telephone: () -		Fax () -		Email	
Signature of Authorized Representative:					
Date Signed					

Attachment "B" INSURANCE REQUIREMENTS

ATTACHMENT "B"

INSURANCE REQUIREMENTS

The Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be paid by the Contractor. Insurance shall meet or exceed the following unless otherwise approved by the City.

A. Minimum Insurance

1. Commercial General Liability coverage with limits not less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate,
2. Stop Gap/Employers Liability coverage with limits not less than \$1,000,000 per accident/disease,
3. Business Automobile Liability coverage with limits not less than \$1,000,000 per accident for any auto,
4. Workers' Compensation coverage as required by the Industrial Insurance Laws of the State of Washington.

B. Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City.

C. Other Provisions

Commercial General Liability policies shall be endorsed to:

1. Include the City, its officials, employees and volunteers as additional insureds,
2. Provide that such insurance shall be primary as respects any insurance or self-insurance maintained by the City,
3. Each insurance policy shall provide that coverage shall not be canceled except after thirty (30) days' written notice has been given to the City.

D. Acceptability of Insurers

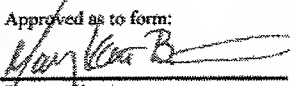
Insurance shall be placed with insurers with a rating acceptable to the City.

E. Verification of Coverage

Contractor shall furnish the City with certificates of insurance required by this clause. The certificates are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

F. Subcontractors

Contractor shall require subcontractors to provide coverage which complies with the requirements stated herein.

Approved as to form:

Deputy City Attorney

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eforms

SPECIAL RIDER

TO

ATTACHMENT "B"

INSURANCE REQUIREMENTS

for

Professional Service Contracts

Add the following to section A. Minimum Insurance:

5. Consultant's Errors & Omissions or Professional Liability with limits not less than \$1,000,000 per claim and as an annual aggregate.



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 2

DATE (MM/DD/YYYY)
02/23/2009

PRODUCER Willis HRH 26 Century Blvd. P. O. Box 305191 Nashville, TN 372305191 877-945-7378		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED American Traffic Solutions, Inc., 7681 E Gray Road Scottsdale, AZ 85260		INSURERS AFFORDING COVERAGE	NAIC#
		INSURER A: National Fire Insurance Company of Hartford	20478-076
		INSURER B: National Fire Insurance Company of Hartford	20478-002
		INSURER C: Twin City Fire Ins. Co.	29459-001
		INSURER D: Illinois Union Ins. Co.	27960-001
		INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	2092249865	11/17/2008	11/17/2009	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	X	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	2097360568	11/17/2008	11/17/2009	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	59WEFY0478	12/31/2008	12/31/2009	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D		OTHER Professional Liab Technology & Internet E&O Retention Retro Active Date	BONG2363272A003	11/17/2008	11/17/2009	\$2,000,000. Each Claim/Aggregate \$ 50,000. Each Claim 11/17/2006

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

It is agreed that City of Bellevue, WA, its Officials, Employees and Volunteers is included as an Additional Insured as respects to General Liability and Automobile Liability, when required by written contract.

It is further agreed that such insurance as is afforded shall be Primary with any other insurance in force for or which may be purchased by the City of Bellevue, WA.

CERTIFICATE HOLDER

CANCELLATION

City of Bellevue, WA 450 110th Ave. NE, Bellevue, WA 98004	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE <i>John B. Jacobs</i>



IMPORTANT: THIS ENDORSEMENT CONTAINS DUTIES THAT APPLY TO THE ADDITIONAL INSURED IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT. SEE PARAGRAPH C.1. OF THIS ENDORSEMENT FOR THESE DUTIES.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CONTRACTOR'S SCHEDULED AND BLANKET ADDITIONAL INSURED
ENDORSEMENT WITH PRODUCTS-COMPLETED OPERATIONS COVERAGE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Designated Project:

**City of Bellevue, WA, its Officials, Employees and
Volunteers**

(Coverage under this endorsement is not affected by an entry or lack of entry in the Schedule above.)

- A. WHO IS AN INSURED (Section II)** is amended to include as an insured any person or organization, including any person or organization shown in the schedule above, (called additional insured) whom you are required to add as an additional insured on this policy under a written contract or written agreement; but the written contract or written agreement must be:
1. Currently in effect or becoming effective during the term of this policy; and
 2. Executed prior to the "bodily injury," "property damage," or "personal and advertising injury".
- B. The insurance provided to the additional insured is limited as follows:**
1. That person or organization is an additional insured solely for liability due to your negligence specifically resulting from "your work" for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.
 2. The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
3. The coverage provided to the additional insured by this endorsement and paragraph f. of the definition of "insured contract" under DEFINITIONS (Section V) do not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.
 4. The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of an architect's, engineer's, or surveyor's rendering of or failure to render any professional services including:
 - a. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and